

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D. C. 20554

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OCT 11 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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In the Matter of )  
 )  
Policies and Rules Implementing ) CC Docket No. 93-22  
the Telephone Disclosure and )  
Dispute Resolution Act )

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**COMMENTS  
OF THE  
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits its comments in the above-referenced proceeding. USTA is the principal trade association of the exchange carrier industry. Its members provide over 98 percent of the exchange carrier-provided access lines in the U. S.

In the Further Notice of Proposed Rulemaking (FNPRM) released August 31, 1994 in this proceeding, the Commission is seeking comment on several amendments to its rules to better protect consumers from fraudulent and abusive practices associated with information services. USTA is aware of the increase in consumer complaints regarding such services. Of particular concern to USTA, and to the Commission, is the use of 800 numbers to provide information services for which callers are assessed charges by a carrier.

Callers are being billed for information received through 800 calls without their notice or consent. The Commission's proposed amendments, however, could add to the administrative

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burdens of exchange carriers and could impose requirements which many exchange carriers, particularly smaller exchange carriers, will not be able to meet.

The Commission should recognize that many of USTA's member companies have voluntarily determined not to bill charges assessed through 800 calls. These companies understand the customer confusion and fraudulent activities which have been associated with certain 800 calls. Individual, voluntary efforts to assist customers in this regard are the best means to address such problems and we expect some USTA member companies to advocate that approach. However, USTA cannot ensure that all of the many common carriers who bill for such calls will follow this voluntary example. Only the Commission can accomplish that. In addition, some carriers may be contractually obligated to provide such billing services. USTA believes that the Commission's rules should not be used by information providers to assume that exchange carriers have an affirmative duty to provide the billing services at issue here. Therefore, USTA recommends that the Commission limit its definition of 800 service so that there are no circumstances under which a caller is assessed a charge on a common carrier's bill for an 800 call. This would lessen the opportunities for consumer fraud without imposing unnecessary and unrealistic burdens on exchange carriers and preserve the "free" character of 800 calls in the mind of the consumer.

900 services are designed to handle all of the billing and notification concerns that the Commission's proposed rules are attempting to resolve regarding 800 services. Exchange carriers cannot be expected to police relationships to which they are not a party, such as those between customers and interexchange carriers and information service providers.

If the Commission goes forward with its proposed amendments, USTA recommends the following changes. The proposed amendment to Section 64.1510(b) could require an exchange carrier to prove that a written agreement existed between a customer and an information service provider before it could bill the charge. Exchange carriers would have no means to determine whether or not a written agreement exists. Even if an exchange carrier was in possession of such an agreement, it would have no means of knowing if or when the customers may have rescinded such an agreement. Further, the amendment does not address who would be responsible for the charge if a written agreement could not be found. The Commission should permit exchange carriers to rely on the representation of an interexchange carrier that a written agreement exists to fully satisfy any exchange carrier responsibility in this regard.

Proposed Section 64.1510(b) would require that an exchange carrier only bill the individual who entered into the written agreement. This would mean that the exchange carrier would have

to bill the information service subscriber even if that person was not the exchange carrier subscriber. Again, it would be impossible for an exchange carrier to ensure that such a requirement is met. At the very least, the Commission should require the information service provider to match its customer with the billing name and address held by the exchange carrier. If there is no match, the information service provider should not be allowed to send the customer name to the exchange carrier for billing.

In addition, proposed Section 64.1510(b)(2)(ii) would require that exchange carriers include a separate statement on the bill regarding 900 calls. Such a requirement would be burdensome and costly for many exchange carriers. USTA would recommend that a separate statement not be required.

The Commission's efforts to modify Section 1504 to limit the use of 800 numbers are reasonable, but do not go far enough to maintain the public expectation that 800 numbers are toll free. USTA recommends that the Commission eliminate the exception in Section 64.1504(c) which allows information providers to offer pay-per-call services on 800 numbers.

In the FNPRM, the Commission recognizes that there is no consensus among information providers and consumers on what constitutes an effective presubscription agreement. The

presubscription exception in Section 64.1504(c) cannot be effectively enforced without committing an inordinant amount of the Commission's resources, or attempting to force the exchange carrier to do so, despite its inability to obtain the necessary information. There is no reason to maintain this exception and allow pay-per-call on 800 numbers. The Commission should eliminate the exception so that the rules are clear to the public: all calls made using 800 numbers are "free" and all pay-per-call services using 900 numbers will carry the expectation that the customer will pay a charge. 900 numbers can include the pay-per-call services to which the customer has presubscribed. Customer recognition is a major factor in avoiding confusion and abuses regarding pay-per-call services. USTA's proposal will deter information providers from utilizing other dialing options to avoid the Commission's rules.

Eliminating the exception will preserve the integrity of the 800 service access code. Many businesses are dependent on 800 numbers for customers to reach them easily. The current exception creates a loophole for information providers which has resulted in customer confusion and could make customers hesitant to utilize 800 numbers for fear of incurring a charge. Such a result is not in the public interest.

In addition, eliminating the exception will assist in delaying the exhaust of 800 numbers. The Administrator of the

North American Numbering Plan has asked the Industry Numbering Committee to address the issue of 800 number exhaust. According to the Administrator, the introduction of 800 number portability has greatly exceeded expectations and will result in the exhaust of 800 numbers within the next few years. The Administrator has asked the industry to begin now to formulate plans to replenish the supply of 800 numbers. Certainly any use of 800 numbers for purposes other than what was intended will only exacerbate this problem.

USTA urges the Commission not to adopt any amendments which would create unnecessary and unrealistic burdens on exchange carriers. USTA recommends that the Commission eliminate Section 64.1504(c) of the rules in order to protect the integrity of 800 numbers and to reduce consumer fraud.

Respectfully submitted,

**UNITED STATES TELEPHONE ASSOCIATION**

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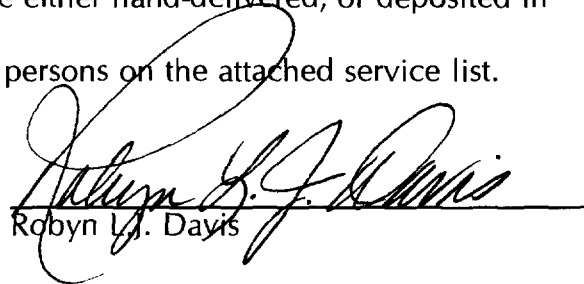
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**CERTIFICATE OF SERVICE**

I, Robyn L.J. Davis, do certify that on October 11, 1994 copies of the Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.

  
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